

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 659 OF 1997

Shri Sandeep Madhukar Momaya & ors. ... Plaintiffs

vs.

M/s. Konark Builders and ors. Defendants

Ms. Mamta Suud

i/b. N. Shah & Himayatullah for plaintiffs

Ms. F.Thakkar i/b.

R. D. Ginwala for defendant no.2

CORAM: A. S. AGUIAR J.

Date: December, 21

2004

P.C.

Learned Advocate for the defendant no. 2 states that the defendant no.2 has no objection if the Court Receiver hands over possession of the suit property to the plaintiffs and Court Receiver be discharged. In view of the statement by advocate for defendant no.2 plaintiffs prays for withdrawal of the suit against defendant no.2. Suit allowed to be withdrawn as aforesaid as against defendant no.2 with no order as to costs.

Plaintiffs seek ex parte decree against defendant no.1. No one seems to have been appearing on behalf of defendant no.1. Learned Advocate for the plaintiff files compilation of documents along with the original documents as also list of documents. Affidavit of service proving service on defendant no.1 by substituted service is on record. Defendant no.1 has not filed any written statement.

Since defendant no.1 has failed to remain present and file any written statement there will be a decree under Order VIII Rule 10 in terms of prayer clause (a), (b) and (h) of the plaint, as against defendant no.1. Court Receiver stands discharged without costs. Learned Advocate for the plaintiffs prays for and is allowed to take back the original documents by substituting the same with xerox copies thereof.

Suit stands disposed of with no order as to costs.

C. C. expedited.

(A. S. AGUIAR J.)